

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

BRIAN TROTTER,

Defendant.

8:11CR83

ORDER

This matter is before the court on the motion of Clarence E. Mock to withdraw as counsel for the defendant, Brian Trotter (Trotter) (Filing No. 43). The court held a hearing on the motion on September 20, 2011. Trotter was present with Mr. Mock and the government was represented by Assistant U.S. Attorney Nancy A. Svoboda. During an in camera hearing with Trotter and Mr. Mock, the court determined there has arisen an irreconcilable conflict, a complete breakdown in communication, and other factors which interfere significantly with Mr. Mock's ability to provide zealous representation of Trotter. **See *United States v. Anderson***, 570 F.3d 1025, 1031 (8th Cir. 2009). Accordingly, Mr. Mock's motion to withdraw is granted.

James R. Kozel, 12020 Shamrock Plaza, #300, Omaha, NE 68154, (404) 334-3900, is appointed to represent Trotter for the balance of these proceedings pursuant to the Criminal Justice Act. Mr. Mock shall forthwith provide Mr. Kozel with the discovery materials provided the defendant by the government and such other materials obtained by Mr. Mock which are material to Trotter's defense.

The clerk shall provide a copy of this order to the Office of the Federal Public Defender and to Mr. Kozel.

In order to provide new counsel adequate time to prepare for trial, **trial of this matter scheduled for September 27, 2011, is canceled.** Trial is **rescheduled** before Chief Judge Joseph F. Bataillon and a jury **commencing at 9:00 a.m. on October 31, 2011.** During the hearing on September 20, 2011, Trotter requested such additional time and acknowledged the time provided would be excluded from the computations under the

Speedy Trial Act. The additional **time** arising as a result of the granting of the request, i.e., the time between **September 20, 2011, and October 31, 2011**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

IT IS SO ORDERED.

DATED this 21st day of September, 2011.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge